

REMARKS

Reconsideration of the above-identified patent application in view of the amendment above and the remarks below is respectfully requested.

Claims 6 and 16 have been canceled in this paper. Claims 1, 5, 19 and 20 have been amended in this paper. No new claims have been added in this paper. Therefore, claims 1-5, 7-15 and 17-34 are pending and under active consideration.

The Abstract stands objected to “because it references to purported merits, such as the elimination of presbyopia. Correction is required. See MPEP §608.01(b).”

In response to the above, Applicant has amended the Abstract in the manner requested by the Patent Office. Accordingly, the objection has been overcome and should be withdrawn.

Also in the outstanding Office Action, the Patent Office sets forth the guidelines that “illustrate the preferred layout for the specification of a utility application.”

In response to the above, Applicant notes that the guidelines in question are merely preferred and not mandatory. Nevertheless, Applicant has amended the specification to include several section headings.

The disclosure stands objected to for the following reasons:

Minor grammatical and/or spelling errors. For example, on page 6, last paragraph, “...may have an actuator and control can be effected...” and further “...the actuator--in particular...” The first error is grammatical and the second is a typo in which two hyphens are used, a comma is suggested (occurs again on page 22 second paragraph). Additional errors may exist and need to be addressed and corrected. Furthermore, when referencing a patent, make it clear that the reference is a patent, for example, on page 11, it states “from US-A-5,659,330” whereas it is suggested to state “US Patent 5,659,330” or similar format to cause no confusion between patent, publications, etc. Other instances occur throughout and need to be corrected. Furthermore, one element per reference number and vice versa. It is recommended that applicant use numbers to prevent confusion. For

example, on page 24, element “pupil” is referenced (103) and further element “cornea” is referenced (103*). In the list of references, which does not belong in the specification, element “cornea” is referenced (108). All elements and reference characters need to be labeled consistently and appropriately.

Appropriate correction is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Flexible Artificial Lens Accommodated by means of Pressure or Electrical Conductivity.

In response to the above, Applicant has amended the disclosure extensively. Accordingly, the subject objection to the disclosure should be withdrawn.

Claims 5, 10, 19 and 20 stand rejected under 35 U.S.C. 112, second paragraph, “as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.” In support of the rejection, the Patent Office states the following:

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired.

See MPEP §2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by “such as” and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 5 recites the broad recitation of at least 1.5 diopters, and the claim also recites at least 2.5 diopters and further at least 4 diopters which is the narrower statement of the range/limitation. In the present instance, claim 19 recites the broad recitation between 30 and 45 degrees Celsius, and the claim also recites between 35 and 40 degrees Celsius

and further between 36 and 38 degrees Celsius which is the narrower statement of the range/limitation.

Regarding claims 5 and 19, the phrase “more preferably” renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP §2173.05(d). Claims 5 and 19 claim a broad range and then further limits the range.

Regarding claim 10, it is unclear to the examiner what is being claimed. The examiner will interpret the claim as interchanging two media’s.

Regarding claim 20, the phrase “in particular” renders the claim indefinite, because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP §2173.05(d).

The examiner has interpreted the claims using the broadest reasonable interpretation further ignoring the “further limiting” terminology used.

Applicant respectfully traverses the subject rejection. Insofar as the subject rejection is predicated on the use of the expressions “more preferably” and “in particular,” Applicant has amended the claims to remove these expressions. Insofar as the subject rejection relates to claim 10, Applicant respectfully disagrees with the Patent Office’s position that the language in question is unclear. Claim 10 clearly states that two flexible media are used whereby these media are formed in a specific manner, namely, that they cannot be mixed with one another. Therefore, both media are always “separated” from each other.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claims 1-11, 13, 15-18, 21-22, 24 and 26-34 stand rejected under 35 U.S.C. 102(b) “as being anticipated by Klopotek (US Patent 6,730,123; hereinafter Klopotek).”

Applicant respectfully traverses the subject rejection.

Klopotek describes an artificial intra-ocular lens which comprises a number of optical elements. As is evident from Figures 1A and 1B of Klopotek and from the corresponding description at col. 1, lines 46-59; col. 2, lines 29 to 39; and col. 7, lines 20-39, the Klopotek intra-ocular lens comprises an optical body 12, said optical body being bordered by a membrane 16 and by a further optical element 14. Optical element 14 can be a lens or a membrane. These optical elements 14 and 16 surround an optical chamber 18. The optical chamber 18 is linked to a reservoir whereby a fluid can be fed from said reservoir into said optical chamber. If this happens, there will be a change in the curvature at least from membrane 16.

Claim 1 of the present application has been amended in this paper to additionally include the features of canceled claims 6 and 16. An artificial lens which includes all of the features recited in claim 1 is neither taught nor suggested by Klopotek.

For example, claim 1 now recites the distinctive feature that the media which are flexible in shape are formed as a liquid or a type of gel. This feature is not taught or suggested by Klopotek. The Patent Office has alleged in the outstanding Office Action that Klopotek mentions a hydrogel at column 10, lines 27-33. However, said hydrogel does not form part of the artificial lens. According to the Klopotek passage in question, a pump 56 is provided, said pump having a tubular structure. This pump can be made of a flexible material. The pump functions to feed the fluid into the optical chamber. Therefore, the aforementioned passage describes the embodiment of the pump. It does not describe those media which are flexible in shape that form the artificial lens.

Klopotek describes an artificial lens which has a kind of vessel (the optical chamber 18), said vessel being bound by said membrane 16 and the lens/membrane 14. Said vessel incorporates a fluid. However, according to Klopotek, there is only one single fluid within said vessel.

According to the teachings of Klopotek, if one considers membrane 16 as a first media being flexible in shape and the fluid within said chamber as being the second media being flexible in shape, then Klopotek would teach two media which are flexible in shape and that contact on at least one surface. However, in such a case, Klopotek does not give any hint that **both** media that are flexible in shape are formed as a liquid or a type of gel.

In the event that membrane 16 and lens/membrane 14 are considered to be a wall of optical chamber 18, then only one media that is flexible in shape and which is formed as a liquid is used. However, in this case, the media does not contact a second media that is flexible in shape. Therefore, there cannot be any contact on at least one interface between two media that are flexible in shape.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claims 12, 14, 19, 20, 23 and 25 stand rejected under 35 U.S.C. 103(a) “as being unpatentable over Klopotek as applied to claims 1, 2, 18, 22 and 24 above, and further in view of Esch (US Patent 7,122,053; hereinafter Esch).”

Applicant respectfully traverses the subject rejection. Claims 12, 14, 19, 20, 23 and 25 depend, directly or indirectly, from claim 1. Claim 1 is patentable over Klopotek for at least the reasons given above. Esch fails to cure all of the deficiencies of Klopotek with respect to claim 1. Therefore, based at least on their respective dependencies from claim 1, claims 12, 14, 19, 20, 23 and 25 are patentable over the applied combination of references.

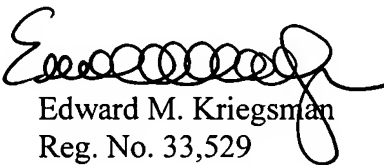
Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

In conclusion, it is respectfully submitted that the present application is now in condition for allowance. Prompt and favorable action is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.

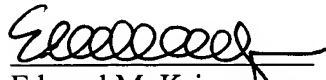
Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 26, 2009.


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